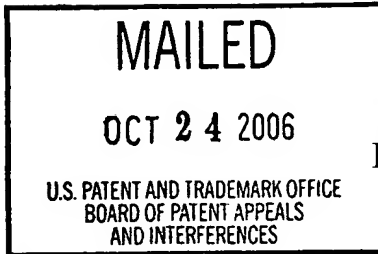


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARCIA GROSSMAN NOZIK and RANDY GROSSMAN NOZIK

Application 10/759,713

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on October 11, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed June 1, 2006 does not list the Evidence Relied Upon in the rejections of the appealed claims. On page 3 of the examiner's answer beneath the heading **(8) Evidence Relied Upon** the examiner states "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal."

The examiner is directed to the Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 3, August 2005) which states in part:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

...

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e-g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner's §§ 102(e) and 103(a) rejections are based wholly or in part on U.S. patents (prior art), and these references along with any other evidence relied upon in the rejections need to be listed accordingly beneath the Evidence Relied Upon heading.

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner

- a) to issue a revised Examiner's Answer listing the evidence relied upon in the rejection(s) of the appealed claims,
- b) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: *G P Edge for Dale Shaw*
DALE M. SHW
Acting Chief Appeals Administrator
(571) 272-9797

DMS/vsh

cc: RICHARD R. MICHAUD
MICHAUD-DUFFY GROUP LLP
SUITE 206
306 INDUSTRIAL PARK ROAD
MIDDLETOWN, CT 06457